

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DISABILITY RIGHTS RHODE ISLAND,)	
Plaintiff,)	
)	
v.)	
)	
RICHARD CHAREST, in his official)	
Capacity as Director of the RHODE ISLAND)	C.A. No. 1:22-cv-00304-MSM-PAS
DEPARTMENT OF BEHAVIORAL)	
HEALTHCARE, DEVELOPMENTAL)	
DISABILITIES & HOSPITALS)	
Defendant.)	
)	
)	

DISMISSAL STIPULATION

By agreement of the parties, this matter may be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii).

The parties acknowledge that:

1. Plaintiff Disability Rights Rhode Island (“DRRI”) is currently the designated PAIMI (Protection and Advocacy for Individuals with Mental Illness Act) entity in Rhode Island.
2. In its capacity as a PAIMI entity, DRRI having made its determination of probable cause, requested records from BHDDH relating to a specific individual (the “patient”), including two (2) documents that were generated as a result of Eleanor Slater Hospital’s peer-review process.
3. After the filing of this lawsuit, portions of the two (2) documents generated by an Eleanor Slater Hospital peer-review committee, that mentioned the patient, were produced to DRRI. The parties recognize that these two (2) documents are covered by

the State peer-review privilege; however, the parties agree that precedent from some Federal jurisdictions, not including the First Circuit Court of Appeals, support that:

- a. peer review reports fall within 42 U.S.C. § 10805(a)(4) granting the PAIMI entity access to client records, including those that are generated during the peer-review process;
- b. state law does not bar disclosure of peer review reports that fall within 42 U.S.C. § 10805(a)(4) to a designated PAIMI entity for investigative purposes prior to any litigation or discovery process; and
- c. 42 U.S.C. § 10805(a)(4) preempted state law concerning peer-review privilege prior to any litigation or discovery process.

The parties agree that they shall bear their own attorneys' fees and costs.

This 14th day of October, 2022.

Respectfully submitted,

/s/ Brian Adae
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CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2022, the foregoing DISMISSAL STIPULATION was filed with the United States District Court for the District of Rhode Island using the CM/ECF system, and that a copy is available for viewing and downloading.

/s/ Kristine L. Sullivan